

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Anthony Akeum Abari,

Civil No. 19-1455 (DWF/ECW)

Plaintiff,

v.

**ORDER AFFIRMING
MAGISTRATE JUDGE'S ORDER**

Minneapolis Police Department,

Defendant.

This matter is before the Court upon *pro se* Plaintiff Anthony Akeum Abari's ("Plaintiff") objection (Doc. No. 10) to Magistrate Judge Elizabeth Cowan Wright's October 22, 2019 Order (Doc. No. 9) insofar as it ordered that: (1) Plaintiff must pay an initial partial filing fee of at least \$36.62 within 30 days of the Order's date; (2) should Plaintiff fail to pay the initial partial filing fee, it will be recommended that this action be dismissed without prejudice for failure to prosecute; and (3) denying Plaintiff's request for recusal. On November 6, 2019, Plaintiff filed a Reconsideration Motion, which the Court construes to be an appeal of the Magistrate Judge's Order. (Doc. No. 10.) On the same day, Plaintiff filed a "Reply to Order of Court Dated September 19, 2019," which also challenges the Magistrate Judge's Order. (Doc. No. 11.)

Plaintiff argues that he does not have the means to pay the partial filing fee and that requiring him to do so is a violation of his rights. Plaintiff requests that his fees be waived until he is able to pay. Plaintiff also seeks to add a Minneapolis Police Officer

and the City of Minneapolis as Defendants and maintains that this matter should be assigned to a different magistrate judge.

The Court must modify or set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. *See* 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Local Rule 72.2(a). This is an "extremely deferential" standard. *Reko v. Creative Promotions, Inc.*, 70 F. Supp. 2d 1005, 1007 (D. Minn. 1999). "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Chakales v. Comm'r of Internal Revenue*, 79 F.3d 726, 728 (8th Cir. 1996) (quoting *Chase v. Comm'r of Internal Revenue*, 926 F.2d 737, 740 (8th Cir. 1991)). "A magistrate judge's ruling is contrary to law when it either fails to apply or misapplies pertinent statutes, case law or rules of procedure." *Coons v. BNSF Ry. Co.*, 268 F. Supp. 3d 983, 991 (D. Minn. 2017) (citing *Edeh v. Midland Credit Mgmt., Inc.*, 748 F. Supp. 2d 1030, 1043 (D. Minn. 2010)).

The relevant factual and procedural background for the above-entitled matter is clearly and precisely set forth in the Order and is incorporated by reference. In the Order, the Magistrate Judge explained the relevant law pertaining to the payment of filing fees and refers to a trust account statement showing that Plaintiff appears to have the means to pay the initial partial filing fee. The Magistrate Judge further explained that this action will go forward only if Plaintiff pays the initial partial filing fee. In addition, the Magistrate Judge found that Plaintiff has not made the required showing to support his recusal request. Finally, the Magistrate Judge observed that Plaintiff's requests to amend

his complaint, as well as his request for copies of various materials, would be considered after Plaintiff has paid his initial partial filing fee.

After careful review of Plaintiff's objections, the Court finds that the Magistrate Judge's Order is neither clearly erroneous nor contrary to law. Giving proper deference to the Magistrate Judge's October 22, 2019 Order, the Court denies Plaintiff's appeal and affirms the Order in all respects.

IT IS HEREBY ORDERED that

1. Plaintiff Anthony Akeum Abari's objections (Doc. No. [10]) to Magistrate Judge Elizabeth Cowan Wright's October 22, 2019 Order (Doc. No. [9]) are

OVERRULED.

2. Magistrate Judge Elizabeth Cowan Wright's October 22, 2019 Order (Doc. No. [9]) is **AFFIRMED**.

Dated: January 29, 2020

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge